

SECRETARY OF STATE[721]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby amends Chapter 22, "Voting Systems," Iowa Administrative Code.

These amendments are necessary to establish uniformity in the treatment of digital ballot images captured by the various voting systems certified by the Board of Examiners for Voting Systems for use in the state of Iowa. Current rules address digital ballot images for two of the three systems certified for use in the state. These amendments remove the individual references to digital ballot images and adopt in lieu thereof a rule of general applicability to all certified voting systems. These amendments also adopt standards for use of the Unisyn OpenElect OVCS central count tabulator certified for the first time on January 17, 2014, by the Board of Examiners for Voting Systems for use in the state.

These amendments were published under Notice of Intended Action in the Iowa Administrative Bulletin on May 28, 2014, as **ARC 1474C**. No public comments or requests for public hearing were received, and no change has been made to the amendments published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 52.26.

These amendments will become effective August 27, 2014.

The following amendments are adopted.

ITEM 1. Adopt the following **new** subrule 22.201(2):

22.201(2) Digital ballot images that are saved as the voted ballots are scanned and the portions of those images that are printed on the results tapes may be used for the purpose of tallying write-in votes cast in the election. Digital ballot images that are saved as the voted ballots are scanned shall not be transferred to the election computer used as part of the voting system as defined by rule 721—22.1(52). Digital ballot images shall be treated as voted ballots under Iowa Code section 50.12 in terms of preservation, access, retention, and destruction, except the images shall not be accessed in the event of an official recount as required by Iowa Code section 50.48(4)"a" or election contest unless the actual physical ballots are unavailable.

ITEM 2. Rescind and reserve paragraph **22.261(2)"e."**

ITEM 3. Rescind and reserve paragraph **22.261(3)"d."**

ITEM 4. Amend paragraph **22.264(2)"c"** as follows:

c. Ballot acceptance by the OVO unit. In an official election, the commissioner shall not program the OVO for unconditional acceptance of all ballots and shall program the OVO unit to accept undervoted ballots. The system shall also be programmed to query the voter and give the voter the on-screen option to "Cast Ballot as Marked" in each of the following situations:

(1) to (3) No change.

ITEM 5. Adopt the following **new** subrule 22.264(7):

22.264(7) Central count automatic tabulator configuration choices. The following settings are mandatory for all elections in which the OVCS is used.

a. Ballot control. In an official election, the commissioner shall program the central count automatic tabulator to accept overvoted ballots and undervoted ballots. The commissioner shall program the central count automatic tabulator to sort blank ballots and unreadable ballots as required by Iowa Code section 52.37. Ballots with write-in votes may be sorted for further review by the absentee and special voters precinct board at the commissioner's discretion.

b. Reports. The following are required reports:

(1) Opening the polls. Before ballots are tabulated in the central count automatic tabulator, a Zero Certification report shall be printed and shall be signed by the members of the absentee and special voters precinct board.

(2) Closing the polls. After all ballots are tabulated by the central count automatic tabulator, a poll report shall be printed. The poll report is the official record of ballots tabulated in the absentee precinct and shall be signed by the members of the absentee and special voters precinct board.

c. Reopen polls. The commissioner shall enable the option to reopen the polls, but protect it against unauthorized use.

ITEM 6. Amend subrule 22.266(2) as follows:

22.266(2) Precinct automatic tabulator configuration choices. The following selections are mandatory for all elections.

a. Access, messaging and tabulating selections. The Machine Behavioral Settings shall be configured as follows:

(1) The option to allow voters to review ballot selections detected by the precinct automatic tabulator shall be disabled.

(2) Results for each precinct automatic tabulator shall be consolidated by precinct and shall not be reported by split within a precinct.

~~(3) The option to store ballot images as ballots are scanned by the precinct automatic tabulators shall be disabled.~~

(4) (3) The automatic tabulators shall be configured to report write-in votes when the oval is darkened, regardless of whether there is text written on the corresponding write-in line.

b. and c. No change.

ITEM 7. Amend paragraph **22.266(3)“b”** as follows:

b. Reports. The following are required reports:

(1) Opening the polls. Before ballots are tabulated in the central count automatic tabulator, a Zero Certification report shall be printed and shall be signed by the members of the absentee and special voters precinct board.

(2) Closing the polls. After all ballots are tabulated by the central count automatic tabulator, a poll report shall be printed. The poll report is the official record of ballots tabulated in the absentee precinct and shall be signed by the members of the absentee and special voters precinct board. ~~The following certification text shall appear at the end of the poll report:~~

~~We, the undersigned precinct election officials of this precinct, hereby attest that this tape shows the results of all ballots cast and counted by the Optical Scan tabulation device at this election.~~

~~{print lines for each of the officials to sign}~~

Precinct Election Officials

Date: _____

Time: _____

[Filed 7/2/14, effective 8/27/14]

[Published 7/23/14]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/23/14.